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UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

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STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

ILLINOIS

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PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings, "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This part comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

PART II.—FIRES.

(This part comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative

duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and saw-mill engines, and boilers.)

SEC. 63, CH. 114, REV. STAT., 1913 (HURD).

Clearing rights of way—Penalties.—It shall be the duty of all railroad corporations to keep their rights of way clear from all dead grass, dry weeds, or other dan-

gerous combustible material, and for neglect shall be liable to the penalties named in section 1.¹

SEC. 103, CH. 114.

Civil action for injuries caused by fires from locomotives: Prima facie evidence of negligence—Extent of owner's responsibility—Act not retroactive.—*Be it enacted by the people of the State of Illinois, represented in the general assembly, That in all actions against any person or incorporated company for the recovery of damages on account of any injury to any property, whether real or personal, occasioned by fire communicated by any locomotive engine while upon or passing along any railroad in this State, the fact that such fire was so communicated shall be taken as full prima facie evidence to charge with negligence the corporation, or person or persons who shall, at the time of such injury by fire, be in the use and occupation of such railroad, either as owners, lessees or mortgagees, and also those who shall at such time have the care and management of such engine; and it shall not, in any case, be considered as negligence on the part of the owner or occupant of the property injured, that he has used the same in the manner, or permitted the same to be used or remain in the condition it would have been used or remained had no railroad passed through or near the property so injured, except in cases of injury to personal property which shall be at the time upon the property occupied by such railroad. This act shall not apply to injuries already committed. [L. 1869, p. 312, sec. 1.]*

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 18, CH. 38, REV. STAT., 1913 (HURD).

Burning woods, prairies, etc.: Fine—Notice to neighbors—Civil action.—If any person shall, at any time hereafter, wilfully and intentionally or negligently and carelessly set on fire, or cause to be set on fire any woods, prairies or other grounds whatsoever, he shall be fined not less than \$5 nor more than \$100: *Provided*, this section shall not extend to any person who shall set on fire or cause to be set on fire any woods or prairies adjoining his own farm, plantation or inclosure, for the necessary preservation thereof from accident by fire, between the last day of November and the first day of March, by giving to his neighbors and the owner or occupant of such land, and any person likely to be affected thereby, two days' notice of such intention [sic]: *Provided, also*, this section

¹ The penalty clause in section 1, in addition to damages, provides that railroads shall be liable for reasonable attorney's fees in both trial and appellate courts when damage is negligently or willfully done.

shall not be construed to take away any civil remedy which any person may be entitled to for any injury which may be done or received in consequence of any such firing.

PART III. PUBLIC FORESTS.

(This part comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included, because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

SEC. 1, CH. 57A, REV. STAT., 1913 (HURD).

Forest preserve districts, incorporation of.—*Be it enacted by the people of the State of Illinois, represented in the general assembly, That whenever any area of contiguous territory lying wholly within one county contains one or more natural forests or parts thereof and one or more cities, towns, or villages, such territory may be incorporated as a forest preserve district in the following manner, to wit:*

Petition for organization—Notice of hearing—Hearing—Order defining boundaries—Joint hearings.—Any five hundred legal voters residing within the limits of such proposed district may petition a circuit judge of the county in which such proposed district lies to cause the question to be submitted to the legal voters of such proposed district, whether or not it shall be organized as a forest preserve district under this act; such petition shall be addressed to the circuit judge or judges of the county in which such proposed forest preserve district is situated and shall contain a definite description of the territory intended to be embraced in such district and the name of such district. Upon the filing of such petition in the office of the clerk of the circuit court of the county in which such territory is situated, it shall be the duty of such circuit judge to whom such petition is assigned to fix a day and hour for the public consideration thereof, which shall not be less than fifteen days after the filing of such petition. Such circuit judge shall cause a notice of the time and place of such public consideration to be published three successive days in some newspaper having a general circulation in the territory proposed to be placed in such district. The date of the last publication of such notice shall not be less than five days prior to the time set for such public hearing. At the time and place fixed for such public hearing said circuit judge shall sit and hear any person owing [owning] property in such proposed district who desires to be heard, and if said circuit judge shall find that all of the provisions of this act have been

complied with, he shall cause to be entered upon the records of the circuit court of such county an order fixing and defining the boundaries and the name of such proposed district in accordance with the prayer of the petition. In the event that any other petition or petitions for the organization of a forest preserve district or districts in the same county shall be filed under this act before the time fixed for the public hearing of the first petition, said circuit judge shall postpone the public consideration of the first petition so that the hearing of all said petitions shall be set for the same day and hour. In any county where there are two or more judges sitting at the time of filing such first petitions the clerk of said circuit court shall cause all petitions, filed subsequent to said first petition to be assigned to the judge to whom said first petition is assigned, so that all such petitions may be heard by the same judge.

Consolidation of petitions—Name of district.—Should two or more petitions be filed under this act and come on for hearing at the same time and it shall be found by said circuit judge that any of the territory embraced in any one of said petitions is included in or contiguous with the territory embraced in any other petition or petitions, said circuit judge may include all of the territory described in such petitions in one district and shall fix the name proposed in the petition first filed as the name for said district. After the entry of the order fixing and defining the boundaries and the name of such proposed district, it shall be the duty of said circuit judge to order to be submitted to the legal voters of such proposed district at any special or general election held therein, the question of the organization of such proposed district and he shall give notice thereof by causing ten notices of such election to be posted in public places within such proposed district, and one notice thereof to be published at least five days prior to the date of such submission in some newspaper having a general circulation in the proposed district. Said notices shall contain a definite description of the territory intended to be embraced in such district, and the name of such district. [L. 1913, p. 385, sec. 1.]

SEC. 2.

Form of ballot—Canvass of returns.—The ballots to be used at such election shall be substantially in the following form:

<p>“Shall there be organized a forest preserve district in accordance with the order of the judge of the circuit court of county, under the date of the day of, 191.., to be known as (insert here the name of the proposed district as entered in the order of the judge of the circuit court) and described as follows: (Insert description of proposed district as entered in the order of the judge of the circuit court).” [?]</p>	<p>Yes.</p>	
	<p>No.</p>	

The returns of such election in each of the proposed districts shall be made to the clerk of the circuit court of such county and shall be canvassed by him and he shall cause a statement of the result of such election in each district to be entered upon the records of the circuit court of such county, and if a majority of the votes cast in any district upon such question is found to be in favor of the organization of such forest preserve district, such forest preserve district shall thenceforth be deemed an organized forest preserve district under this act. [L. 1913, p. 385, sec. 2.]

SEC. 3.

Judicial notice of districts—Management by board of commissioners—Board, members of: Appointment—Qualifications—Terms of office—Oath.—All courts shall take judicial notice of all forest preserve districts organized under this act. The affairs of such district shall be managed by a board of commissioners consisting of a president and four commissioners, all of whom shall be appointed by the president of the board of county commissioners or the chairman of the board of supervisors of the county in which such forest preserve district is situated, by and with the advice and consent of the members of such board. The first appointment shall be made within ninety days and not sooner than sixty days after such forest preserve district has been organized as provided herein. Each member of such board shall be a legal voter in such district. At the time of the making of the first appointments, the president shall be appointed for a term of four years, two members for a term of two years each, and two members for a term of four years each and until their successors are appointed and qualified; and at the expiration of the term of the president or any member, his successor shall in like manner be appointed for a term of four years and until his successor is appointed and qualified: *Provided*, that no more than three members of such board shall be of the same political party. Each member of the board before entering upon the duties of his office shall take the oath prescribed by the constitution.

Districts to constitute bodies corporate and politic—Rights and powers—Seal—When corporate authorities of counties, villages, or towns, etc., to exercise powers of commissioners—No additional compensation.—From the time of the appointment of the first board of commissioners, such forest preserve district shall be construed in law and equity a body corporate and politic by the name and style determined as aforesaid and by such name may sue and be sued, contract and be contracted with, acquire and hold real and personal estate necessary for its corporate purposes and adopt a seal and alter the same at its pleasure. In case the boundaries of any such district are co-extensive with the boundaries of any county, city, village, incorporated town, or sanitary district, the corporate authorities of such county, city, village, incorporated town, or sanitary district shall have and exercise the powers and privileges and perform the duties and functions of the commissioners

provided for herein and in such case no commissioner shall be appointed for such district. Such corporate authorities shall act without any other pay than that already provided by the law. [L. 1913, p. 385, sec. 3.]

SEC. 4.

Vacancy in office of president or commissioner of district caused by ceasing to be a legal voter therein—Successor, appointment of.—Whenever any person holding the office of president or commissioner of any such district shall, from any cause, cease to be a legal voter within such district, his office shall thereupon become vacant, and a successor shall be appointed for the remainder of his term as other members of the board of commissioners are appointed. [L. 1913, p. 385, sec. 4.]

SEC. 5.

Power to create forest preserves—Nature of lands to be acquired—Purposes of preserves.—Any forest preserve district organized under this act shall have the power to create forest preserves, and for that purpose shall have power to acquire, in the manner hereinafter provided, and hold lands containing one or more natural forests or parts thereof, for the purpose of protecting and preserving the flora and fauna and scenic beauties within such district, and to protect and preserve such lands as nearly as may be in their natural condition for the purpose of the education, pleasure, and recreation of the public. [L. 1913, p. 385, sec. 5.]

SEC. 6.

Acquisition of lands for forest preserves—Paths, roadways, etc., through.—The board of commissioners of every such forest preserve district shall have the power to acquire, by gift, grant, devise, or purchase, or by condemnation, any and all grounds and lands within such district containing one or more natural forests, or parts thereof, for the purpose of creating, laying out, and maintaining such forest preserves as it may deem proper or desirable. Such board of commissioners shall have the power to establish, lay out, improve, and maintain such convenient and appropriate paths, driveways, and roadways in and through such forest preserves as they shall deem desirable or necessary for the use of such forest preserves by the public.

Title under condemnation proceedings—Sales of lands acquired—Approval of sales.—In all cases where any such forest preserve district acquires any land by condemnation, the title thereto shall be in fee simple absolute, and such title shall not terminate or be defeated by cessation or abandonment of the use for which it was acquired. The board of commissioners of any such forest preserve district may, by ordinance passed by the affirmative vote of all of the members of such board, sell and dispose of any lands acquired by such board: *Provided further, however,* That no such sale or disposal shall be effective until it is approved by the board of county commissioners or board of supervisors of the county in which such district is located. [L. 1913, p. 385, sec. 6.]

SEC. 7.

Speed and traffic regulations within forest preserves—Penalties.—The board of commissioners of any forest preserve district organized hereunder may by ordinance regulate and control the speed of travel on all paths, driveways, and roadways within forest preserves, and prohibit the use of such paths, driveways, and roadways for racing or speeding purposes, and may exclude therefrom traffic, teams, and vehicles, and may by ordinance prescribe such fines and penalties for the violation of their ordinances as cities and villages are allowed to prescribe for the violation of their ordinances. [L. 1913, p. 385, sec. 7.]

SEC. 8.

Board of commissioners to constitute corporate authority of each forest preserve district—Empowered to pass ordinances, etc., and appoint secretary, treasurer, and other officers and employees—Appointments under civil service, except treasurer and attorneys.—The board of commissioners appointed in pursuance of the provisions of this act shall be the corporate authority of such forest preserve district and shall have power to pass and enforce all necessary ordinances, rules, and regulations for the management of the property and conduct of the business of such district. Such board shall have power to appoint a secretary and treasurer and such other officers and such employes as may be necessary, all of whom, except the treasurer and attorneys, shall be under civil-service rules and regulations, as provided for by section 9 of this act.

Salaries.—The president shall receive a salary not to exceed the sum of twenty-five hundred dollars per annum and the salary of other members of the board shall not exceed fifteen hundred dollars per annum. Salaries of the commissioners, officers, and employes shall be fixed by ordinance. [L. 1913, p. 385, sec. 8.]

SEC. 9.

Selection of employes, except treasurer and attorneys, subject to civil-service law.—Whenever the county in which any such forest preserve district is located shall be governed by any law regulating its civil service and the method of selecting its employes, in every such case all employes of such forest preserve district except the treasurer and attorneys, shall be selected in the manner provided by the law regulating the civil service in such county and all such employes shall be subject at all times to the provisions of such act. [L. 1913, p. 385, sec. 9.]

SEC. 10.

Record of ordinances, etc., and annual report by board of commissioners.—The board of commissioners shall keep a record of all ordinances and other proceedings which shall be open to the inspection of any person residing in such district at all reasonable and proper times. The board of commissioners shall report annually to the board of county commissioners of [or] the board of supervis-

ors of the county in which such district is located, the revenues received, expenditures made, land acquired, with the progress of construction work, the condition of the property and such other matters as may have been acted upon by the board during the previous year. [L. 1913, p. 385, sec. 10.]

SEC. 11.

Publication of ordinances imposing penalties, or making appropriations—Dates of ordinances, etc., taking effect—Evidence of passage and publication.—All ordinances imposing any fine or penalty or making any appropriation of money, shall within ten days after their passage, be published at least once in some newspaper published in such district or having a general circulation therein to be designated by the board of commissioners and no such ordinance shall take effect until ten days after it is so published. All other ordinances and all orders or resolutions shall take effect from and after their passage unless otherwise provided therein. All ordinances, orders and resolutions and the date of publication thereof may be proven by the certificate of the secretary of such district under the seal of the corporation and when printed in book [or] pamphlet form and published by authority of such board of commissioners, such book or pamphlet shall be received as evidence of the passage and publication of such ordinances, orders and resolutions as of the date mentioned in such book or pamphlet in all courts and places without further proof. [L. 1913, p. 385, sec. 11.]

SEC. 12.

President of board of commissioners: Powers and duties of, in general—Right of veto—Entitled to vote, when—President pro tem.—The president of the board of commissioners of any district organized hereunder, shall preside at all meetings of the board and be the executive officer of such district; he shall sign all ordinances, resolutions and other papers necessary to be signed and shall execute all contracts entered into by such district and perform such other duties as may be prescribed by ordinances. He shall have the right to veto any ordinance: *Provided*, That such veto shall be filed with the secretary of such board within five days after the passage of such ordinance and when so vetoed such ordinance shall not be effective unless the same be again passed by the unanimous vote of all the members of such board. The president shall be entitled to vote only in case of a tie. In the temporary absence or inability of the president, the commissioners may elect from their own number a president *pro tem*.

Passage of ordinances, etc., requirements for.—The “yeas” and “nays” shall be taken upon the passage of all ordinances and all proposals to create any liability or for the expenditure or appropriation of money and in all other cases at the request of any member of the board, and shall be entered on the journal of the board’s proceedings, and the concurrence of a majority of all the members

appointed to the board shall be necessary to the passage of any such ordinance or provision. [L. 1913, p. 385, sec. 12.]

SEC. 13.

Power of board to raise money by taxation, borrowing, and bond issues—Limit of indebtedness—Maturing of bonds.—The board of commissioners of any forest preserve district organized hereunder shall have power to raise money by general taxation for any of the purposes enumerated in this act, and power to borrow money upon the faith and credit of such district and to issue bonds therefor: *Provided, however*, such district shall not become indebted in any manner or for any purpose, to an amount including existing indebtedness in the aggregate exceeding one per centum of the assessed value of the taxable property therein as ascertained by the last equalized assessment for State and county purposes. Before or at the time of issuing bonds, the board of commissioners shall provide, by ordinance, for the collection of an annual tax sufficient to pay the interest on such bonds as it falls due, and to pay such bonds as they mature, and said tax to so pay the interest on said bonds as it falls due and to pay said bonds as they mature, shall not be permitted to increase the taxing power of said district as herein provided for. All bonds issued by any forest preserve district shall be divided into series, the first of which shall mature not later than five years after the date of issue, and the last of which shall mature not later than twenty years after the date of issue.

Time and manner of levying general taxes—Limitation of amount.—All general taxes levied by the board of commissioners of any forest preserve district shall be levied at the same time and in the same manner as taxes are levied for city and village purposes: *Provided*, that the amount of taxes levied for any one year shall not exceed the rate of one mill on each dollar. All moneys collected under the provisions of this act shall be paid to the treasurer of such district. [L. 1913, p. 385, sec. 13.]

SEC. 14.

Annexation of adjoining territory, method of procedure.—Any territory adjoining any forest preserve district organized hereunder may become a part of such district in the following manner: Upon the filing with the county judge of the county in which such district is located, of a petition signed by not less than ten per cent of the legal voters residing within the territory proposed to be annexed, such county judge shall submit at the next general election held in the territory so proposed to be annexed, the question of such annexation, and if a majority of the votes cast upon such question shall be in favor of such annexation, when such votes are canvassed in the manner provided for the canvass of the votes upon the creation of a forest preserve district, such territory so proposed to be annexed shall become and be a part of such forest preserve district. [L. 1913, p. 385, sec. 14.]

PART IV.—TAXATION.

(This part comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

SEC. 1, CH. 136, REV. STAT., 1913 (HURD).

Bounties for planting and cultivating forest trees, counties authorized to offer.—*Be it enacted by the people of the State of Illinois, represented in the general assembly,* That it shall be lawful for the board of supervisors or *county commissioners' court* [board of county commissioners] in any county in this State to offer a bounty to any person in said county who shall hereafter plant one or more acres of land with forest trees, and properly cultivate the same for three years, any sum not to exceed \$10 per annum for three years for each acre so planted and cultivated [sic]: *Provided*, that trees so planted shall not be at a greater distance than ten feet apart each way.

SEC. 2.

Proof.—Any person claiming the bounty under this act shall make proof before the county clerk that he has complied with section 1 of this act, and that the trees planted by him are in a healthy and growing condition.

SEC. 3.

Certificate.—Upon proof of a compliance with this act the county clerk shall issue his certificate to the person entitled to the same, setting forth that the provisions of this act have been complied with and the number of acres so planted.

SEC. 4.

Bounty, how offered.—The board of supervisors or *county commissioners' court* [board of county commissioners], desiring to offer the bounty herein provided for, shall do so by resolution, to be made of record, and giving notice in some newspaper published in the county three weeks prior to the first day of April of each year; said resolution and notice to state the amount of bounty offered for each acre planted and cultivated.

